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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
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PCT LEGAL ADMINISTRATION

In re Application of :
WANK :
Patent No.: 7871606 :
Application No.: 10/687,913 :
Filing Date: 20 October 2003 : **DECISION on PETITION**
Attorney's Docket No.: 104341.B090019 :
For: USE OF STIMULATED PERIPHERAL- : **UNDER 37 CFR 1.78(a)(3)**
BLOOD MONONUCLEAR CELLS FOR THE :
TREATMENT OF CANCEROUS DISEASES :

This is a decision on Petitioner's "Petition Under 37 CFR 1.78", filed 05 April 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 365(c) for the benefit of priority of PCT Application No. PCT/EP02/04524, filed on 24 April 2002. The petition will be treated under 37 CFR §1.78(a)(3).

The petition is **DISMISSED**.

A petition under 37 CFR §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under must be accompanied by:

- (1) the reference required by 35 U.S.C. §§120 and 119(e) and 37 CFR §§1.78(a)(2) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As to item (1), the petition does not comply with the requirements for a grantable petition under 37 CFR 1.78(a)(3), in that, a proper reference to the prior-filed international application has not been included in an amendment to the first sentence of the specification following the title or in an executed supplemental Application Data Sheet, as provided by 37 CFR §1.78(a)(2)(iii).

Applicant is advised that a supplemental application data sheet (ADS) must bear a proper signature as required by 37 CFR 1.33(b). The supplemental ADS submitted with the present petition does not bear a proper signature as required by 37 CFR 1.33(b). Form PTO/SB/14 contains an appropriate signature block and can be obtained at <http://www.uspto.gov/efc/portal/efs/sb0014.fill.pdf>. Applicant is further advised that a supplemental ADS must be titled in accordance with 37 CFR 1.76(c)(2).

With respect to Item (2), applicant's statement that "the entire delay was unintentional" is construed as "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional". If this is incorrect, applicant must notify the Office at once.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either an executed Supplemental Application Data Sheet or a proper amendment (complying with 37 CFR 1.121 or 37 CFR 1.76(b)(5)) are required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

/Boris Milef/

Boris Milef

PCT Legal Examiner

Office of PCT Legal Administration